

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(As Amended at ARRS, August 10, 2021)

105 KAR 1:270. [~~Special federal income tax withholding~~]Federal tax withholding or direct rollover of funds for eligible distributions.

RELATES TO: KRS ~~16.505, 16.578, 16.645,~~ 61.505(1)(f), 61.510, 61.625, 61.635, 61.640, 61.690, [~~61.645(9)(g),~~] ~~[16.505, 16.578, 16.645,~~ 78.510, 78.545, ~~i~~] 26 U.S.C. 72(t), 401(a), 402

STATUTORY AUTHORITY: KRS ~~61.505(1)(f)~~ [~~61.645(9)(g)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(f) [~~KRS 61.645(9)(e)(g)~~] authorizes the Kentucky Public Pensions Authority [~~Board of Trustees of Kentucky Retirement Systems~~] to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with [~~necessary to carry out the provisions of~~] KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. 26 U.S.C. 402 establishes the federal taxation requirements regarding direct rollovers of distributions and the withholding of federal income tax. This administrative regulation establishes the procedure for informing affected members, beneficiaries, and alternate payees of their rights with regard to federal taxation rules and provides forms for members, beneficiaries, and alternate payees to indicate their preference for federal tax withholding or direct rollover of funds. This administrative regulation also establishes a procedure to issue a check to an alternate payee of a qualified domestic relations order if the alternate payee does not file [~~return~~] the form required for federal income tax purposes at the retirement office within a reasonable time, and a procedure in ~~for~~ the event that an alternate payee cannot be located.

Section 1. Definitions. (1) Definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this **administrative** regulation.

(2) Prior to April 1, 2021, "the Agency" means the Kentucky Retirement Systems, which administers the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "the Agency" means the Kentucky Public Pensions Authority, which is authorized **to** carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.

(3) "File" means the following methods for delivering or submitting a form to the retirement office: mail, fax, secure email, in-person delivery, and upload via Self Service on the Web site maintained by the agency (if available). **[A form shall not be deemed filed until it has been received at the retirement office.]**

(4) "Provide" means the following methods for the agency to make a form available to a member, beneficiary, or alternate payee: mail, fax, secure email, and upload via Self Service on the Web site maintained by the agency (if available).

Section 2. Application for Refund of Accumulated Account Balance.

(1)(a) **[In order]** To receive a refund of **an [his or her]** accumulated account balance in accordance with KRS 61.625 and 78.545, a member shall apply for **[such]** a refund on a Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection.

(b) Upon receipt of a request by the member, the agency shall provide the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, along with a copy of the Special Tax Notice Regarding Payments, to the member.

(c) Additionally, the agency may make the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.

(2)(a) The member shall complete the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, and file it at the retirement office.

(b) If the member intends to have the funds rolled over directly into an IRA or other plan, the member shall have the trustee or institution complete the applicable section of the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, certifying that the rollover will be accepted.

(c) The employer(s) participating in the agency from which the member has terminated employment may complete the applicable portion of the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, verifying termination of employment.

(3)(a) The refund of contributions shall not be processed until the member is eligible to receive a refund pursuant to KRS 61.625 and 78.545 and the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, is filed by the member at the retirement office.

(b) The refund of contributions shall not be processed no earlier than forty-five (45) days from the date of the member's termination of employment with the participating employer(s) that previously employed the member.

Section 3[2]. Required Form following Member Selection of an Actuarial Refund Retirement Payment Option, Lump-sum Refund of Contributions, or Partial Lump-sum Retirement Payment Option.

(1)(a) Along with each blank Form 6010, Estimated Retirement Allowance, the agency shall provide the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments, to the member.

(b) Additionally, the agency may make the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.

(2)(a) If the member completes the Form 6010, Estimated Retirement Allowance, and selects an actuarial refund retirement payment option, lump-sum refund of contributions, or partial lump-sum retirement payment option, the member shall also complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, and file both completed forms at the retirement office.

(b) If the member intends to have the funds rolled over directly into an IRA or other plan, the member shall have the trustee or institution complete the applicable section of the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate

Payee Regarding an Eligible Rollover Distribution,[the form] certifying that the rollover will be accepted.

(3) The payment option selected by the member on the completed and filed Form 6010, Estimated Retirement Allowance, shall not be processed unless~~[until]~~ the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding~~[or a Spouse Beneficiary of]~~ an Eligible Rollover Distribution, is filed at~~[is returned to]~~ the retirement office.

Section 4[3]. Required Form following Beneficiary Selection of Lump-sum Payment Option or Sixty (60) Months Certain Payment Option, or if Beneficiary Eligible for Lump-sum Refund of Contributions Only.

(1)~~(a)~~ Upon receipt of a completed Form 6010, Estimated Retirement Allowance, on which the beneficiary ~~[who is the surviving spouse]~~ of the deceased member has selected the lump-sum actuarial refund, lump-sum refund of the deceased member's accumulated account balance, or sixty (60) months certain payment option, the ~~agency~~~~[retirement office]~~ shall ~~provide~~~~[mail to the beneficiary who is the surviving spouse of the deceased member]~~ the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding~~[or a Spouse Beneficiary of]~~ an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments, to the beneficiary of the deceased member.

(b) If the beneficiary of the deceased member is only eligible for a lump-sum refund of the deceased member's accumulated account balance, the agency shall provide the Form 6025, Direct Rollover, Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments, to the beneficiary of the deceased member.

(c) Additionally, the agency may make the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.

(2)~~(a)~~ The beneficiary ~~[who is the surviving spouse]~~ of the deceased member shall complete the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding~~[or a Spouse Beneficiary of]~~ an Eligible Rollover Distribution, and ~~file~~~~[return]~~ it ~~at~~~~[to]~~ the retirement office.

(b) If the beneficiary ~~[who is the surviving spouse]~~ of the deceased member intends to have the funds rolled over directly into an IRA or other plan, the beneficiary ~~[who is the surviving spouse]~~ of the deceased member shall have the trustee or institution complete the applicable section~~[back]~~ of the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution,~~[form]~~ certifying that the rollover will be accepted.

(3)~~(a)~~ The payment options selected by the beneficiary ~~[who is the surviving spouse]~~ of the deceased member on a Form 6010, Estimated Retirement Allowance shall not be processed unless~~[until]~~ the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding~~[or a Spouse Beneficiary of]~~ an Eligible Rollover Distribution, is filed at~~[returned to]~~ the retirement office.

(b) If the beneficiary of the deceased member is only eligible for a lump-sum refund of the deceased member's accumulated account balance, payment to the beneficiary of the deceased member shall not be processed unless the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, is filed at the retirement office.

Section 5. Required Form for Alternate Payee who is Eligible for Actuarial Refund or Partial Lump-sum Payment Option, or Eligible for a Portion of the Lump-sum Refund, Partial Lump-sum, or Actuarial Refund Retirement Payment Option selected by the Member.

~~Section 4. (1) Upon receipt of a completed Form 6010, Estimated Retirement Allowance, on which the beneficiary who is not the surviving spouse of the deceased member has selected the actuarial refund or a sixty (60) months certain payment option, the retirement office shall mail to the beneficiary who is not the surviving spouse of the deceased member the Form 6026, Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments.~~

~~(2)(a) The beneficiary who is not the surviving spouse of the deceased member shall complete the Form 6026, Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution, and return it to the retirement office.~~

~~(b) If the beneficiary who is not the surviving spouse of the deceased member intends to have the funds rolled over directly into an IRA or other plan, the beneficiary who is not the surviving spouse of the deceased member shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.~~

~~(3) The payment option selected by the beneficiary who is not the surviving spouse of the deceased member shall not be processed until the completed Form 6026, Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution, is returned to the retirement office.~~

~~Section 5.] (1)(a) If the alternate payee is eligible for a lump-sum portion of the member's accumulated contributions, [contribution account] actuarial refund, or partial lump-sum payment option pursuant to a qualified domestic relations order, the agency shall provide the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution [4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection], along with the Special Tax Notice Regarding Payments [shall be mailed to the alternate payee], to the alternate payee.~~

~~(b) If the alternate payee is eligible for [to select a payment option and selects] an actuarial refund or partial lump-sum payment option pursuant to a qualified domestic relations order, the agency shall provide a Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding [or a Spouse Beneficiary of] an Eligible Rollover Distribution, along with the Special Tax Notice Regarding Payments, to the alternate payee [shall be mailed to the alternate payee].~~

~~(c) Additionally, the agency may make the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, along with a copy of the Special Tax Notice Regarding Payments, available on its Web site.~~

~~(2)(a) The alternate payee shall complete the [Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or] Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding [or a Spouse Beneficiary of] an Eligible Rollover Distribution, and file [return] it at [to] the retirement office.~~

~~(b) If the alternate payee intends to have the funds rolled over directly into an IRA or other plan, the alternate payee shall have the trustee or institution complete the applicable section [back] of the [Form 4525, Application for Refund of Member Contributions and Direct~~

~~Rollover/Direct Payment Selection, or]Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding[~~of Spouse Beneficiary of~~] an Eligible Rollover Distribution, certifying that the rollover will be accepted.~~

~~(3)[(a)] The payment to an alternate payee of an actuarial refund or lump-sum refund, or a portion of the member's accumulated account balance, actuarial refund, or partial lump-sum payment option,[partial lump-sum] pursuant to the qualified domestic relations order shall not be processed until the completed Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding[~~or a Spouse Beneficiary of~~] an Eligible Rollover Distribution, is filed at[returned to] the retirement office.~~

~~(4)(a)[(b)] If the [payment is a portion of the member's contribution account and the] alternate payee does not file at the retirement office[return] the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution[4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection], within thirty (30) days of receipt of the form and the Special Tax Notice Regarding Payments, the alternate payee's payment shall be processed and treated for federal income tax purposes as if the alternate payee had made an election to directly receive the funds instead of rolling over the payment to an IRA or other plan[form, the payment shall be processed and the alternate payee's portion of the refund shall be treated for federal income tax purposes as if the alternate payee had made an election to receive the funds].~~

~~(b) The agency shall hold the amount payable to the alternate payee under this section for at least 180 days after the payment becomes payable.~~

~~1. The agency shall make all reasonable efforts to locate the alternate payee during the 180 days and shall make payment to the alternate payee if he or she is located within that period.~~

~~2. If the alternate payee has not been located within 180 days after the alternate payee's payment becomes payable and the agency has exhausted all reasonable efforts to locate the alternate payee, the agency shall pay the payment held to the member and shall assign the federal tax liability for this payment to the member. [No] Interest shall **not** accrue on this lump-sum payment during the 180 day period or thereafter. If the alternate payee is subsequently located, any amounts already paid to the member shall no longer be payable to the alternate payee.~~

Section 6. Optional Form for Qualified Public Safety Employee electing to receive an Actuarial Refund Retirement Payment Option, Lump-sum Refund, Partial Lump-sum Refund, or Ten (10) Year Certain Retirement Payment Option.

(1) A member who was last employed as a "qualified public safety employee" as defined in 26 U.S.C. Internal Revenue Code, Section 72(t), **shall[will]** not be subject to the ten (10) percent early distribution tax penalty if electing to receive an actuarial refund, lump-sum refund, partial lump-sum refund, or the ten (10) years certain option if the member files the following completed forms at the retirement office:[may file a]

(a) The Form 4527, Certification by a "Qualified Public Safety Employee[Employees]" and Request for an Exception to the [ten-]10%[percent] Early Distribution Penalty in IRC 72(t);~~and~~ and[to avoid the ten (10) percent early distribution tax penalty if electing to receive an actuarial refund, lump-sum refund, partial lump-sum refund, or the ten (10) years certain option.]

(b) The Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or the Form 6025, Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution.

(2)(a) Upon request by the member, the agency shall provide the Form 4527, Certification by a "Qualified Public Safety Employee" and Request for an Exception to the 10% Early Distribution Penalty in IRC 72(t), to the member.

(b) Additionally, the agency may make the Form 4527, Certification by a "Qualified Public Safety Employee" and Request for an Exception to the 10% Early Distribution Penalty in IRC 72(t), available on its Web site.~~[The member who was last employed as a "qualified public safety employee" shall file the Form 4527, Certification by a Qualified Public Safety Employee and Request for an Exception to the 10 percent Early Distribution Penalty in IRC 72(t), with the Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection, or the Form 6025, Direct Rollover/Direct Payment Election Form for a Member or a Spouse Beneficiary of an Eligible Rollover Distribution, at the retirement office in order to avoid the ten (10) percent early distribution tax penalty.]~~

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection", February 2021~~[May 2008]~~;

(b) "Special Tax Notice Regarding Payments", February 2021~~[May 2008]~~;

(c) Form 6010, "Estimated Retirement Allowance", February 2021~~[July 2004]~~;

(d) Form 6025, "Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding~~[or a Spouse Beneficiary of]~~ an Eligible Rollover Distribution", February 2021~~[May 2008]~~; and

(e) ~~[Form 6026, "Direct Rollover/Direct Payment Election Form for a Non-Spouse Beneficiary of an Eligible Rollover Distribution", May 2008; and~~

~~(f)]~~ Form 4527, "Certification by a "Qualified Public Safety Employee~~[Employees]~~" and Request for an Exception to the 10% ~~[percent]~~ Early Distribution Penalty in IRC 72(t)", February 2021~~[May 2008]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority~~[Retirement Systems]~~, ~~[Perimeter Park West,]~~ 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8 a.m. to 4:30 p.m.

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